

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:15 CR 310 AGF
	)	
ANTHONY McDONALD,	)	
	)	
Defendant.	)	

**GOVERNMENT'S MOTION FOR THE PRODUCTION OF  
FINGERPRINTS AND PALM PRINTS**

COMES NOW the United States of America, by and through its attorneys, Richard G. Callahan, United States Attorney for the Eastern District of Missouri, and John T Davis, Assistant United States Attorney for said District, and in support of its motion for this Court to issue an order directing defendant Anthony McDonald to provide his fingerprints and palm prints to law enforcement agents states as follows:

Defendant Anthony McDonald is charged in Count I of an indictment alleging he conspired with co-defendant Deon Elam and others known and unknown to possess with the intent to distribute over 5 kilograms of cocaine. In a related criminal matter, Krystal Clemons was indicted in cause number 4:16CR76 CEJ (SPM) with conspiring with Anthony McDonald, Deon Elam and others to possess with the intent to distribute over five kilograms of cocaine. Defendant McDonald has been ordered detained on this matter and is currently housed at the St. Genevieve County Jail.

In the course of the investigation leading up to the indictments, law enforcement seized cocaine, currency and packaging and wrapping materials from the United States mail believed to be involved in the conspiracy. As part of the investigation and in preparation for trial, the

Government had these materials tested for fingerprints by David W. Lloyd, a Senior Forensic Latent Print Analyst with the United States Postal Service Forensic Laboratory. An examination of the evidence revealed that identifiable fingerprints were lifted from the cocaine packaging. A request was made to have these fingerprints compared to the fingerprints of defendant McDonald. Analyst Lloyd, using a FBI fingerprint card from a previous unrelated arrest of Anthony McDonald, confirmed a match to the prints on the packaging materials. However, the government does not possess a current/recent usable set of defendant McDonald's fingerprints that can be utilized for purposes of further comparison and for laying the proper foundation at trial for admission of the Analyst's testimony. The Government seeks to obtain the fingerprints and palm prints of defendant Anthony McDonald in order to conduct a comparison analysis.

The collection and comparison of fingerprints does not violate the Fifth Amendment. The core protection afforded by the self-incrimination clause of the Fifth Amendment is prohibition on compelling a criminal defendant to testify against himself at trial. Oregon v. Elstad, 470 U.S. 298, 304 (1985); United States v. Patane, 542 U.S. 630, 637 (2004). The Fifth Amendment is not implicated when the only evidence at issue is physical, non-testimonial evidence, which includes obtaining finger and palm prints, handwriting samples and photographs. See United States v. Flores-Sandoval, 474 F.3d 1142, 1147 (8th Cir. 2007), *quoting*, United States v. Villaba-Alvarado, 345 F.3d 1007, 1019 (8th Cir. 2003) (there is "no protection against compulsion to submit to fingerprinting"), *quoting* Pennsylvania v. Muniz, 496 U.S. 582, 590 (1990); Schmerber v. California, 384 U.S. 757, 764 (1966).

The Government has discussed this request with defendant McDonald's counsel Kevin Curran who indicated that defendant McDonald would likely not be willing to consent to the request.

WHEREFORE, the Government respectfully requests that defendant Anthony McDonald be required to submit to the taking of his fingerprints and palm prints.

Respectfully submitted,

RICHARD G. CALLAHAN  
United States Attorney

/s/ John T Davis  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 13, 2016, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Kevin Curran  
Attorney at Law  
(Attorney for defendant McDonald).

/s/ John T Davis  
JOHN T DAVIS #40915MO  
Assistant United States Attorneys